

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Spencer Migotsky	Team: Squad #1	CCRB Case #: 201500009	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/31/2014 10:00 PM	Location of Incident: § 87(2)(b)	Precinct: 108	18 Mo. SOL 6/30/2016	EO SOL 6/30/2016	
Date/Time CV Reported Wed, 12/31/2014 10:33 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 12/31/2014 10:33 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DTS Eric Andreoli	03178	918696	108 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Janine Masso	22629	953069	108 PCT
2. SGT David Echevarria	02189	918995	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Eric Andreoli	Force: Det. Eric Andreoli used physical force against § 87(2)(b)	§ 87(2)(b)
B. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
C. Officers	Force: Officers used pepper spray against § 87(2)(b)	§ 87(2)(b)
D. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On December 31, 2014, at approximately 10:00 pm, Det. Eric Andreoli and PO Janine Masso of the 108th Precinct responded to a 311 complaint at a § 87(2)(b), § 87(2)(f) in Queens. Upon completing the job, the manager of the § 87(2)(f) § 87(2)(b) told the officers that a resident of the § 87(2)(f) was intoxicated in violation of the § 87(2)(f) policy. Det. Andreoli and PO Masso followed § 87(2)(b) to § 87(2)(b)'s room and § 87(2)(b) opened the door. § 87(2)(b) came out of his room with his hands in the air.

A struggle ensued between § 87(2)(b) and the officers whereby § 87(2)(b) went to the ground and was handcuffed. Det. Andreoli allegedly twisted § 87(2)(b)'s arm behind his back in a way that caused injury to his shoulder (**Allegation A**). § 87(2)(b) and § 87(2)(b) were close to § 87(2)(b) as he was struggling. Backup was called and all three were placed under arrest. While § 87(2)(b) was being subdued by the officers, he was allegedly thrown to the ground, punched, and pepper sprayed (**Allegations B and C**). The interactions between § 87(2)(b) and the officers are captured in the § 87(2)(f) surveillance video that has been obtained by the CCRB.

§ 87(2)(b) who was present for the incident, alleged that he was pushed by an officer during the course of events (**Allegation D**).

Mediation, Civil and Criminal Histories

Because § 87(2)(b) and § 87(2)(b) were arrested, this complaint was unsuitable for mediation. To date, § 87(2)(b) and § 87(2)(b) have not submitted notices of claim. § 87(2)(b)

§ 87(2)(b), § 87(2)(a) 160.50

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b)
- Det. Andreoli has been a member of the NYPD for 18 years and has 21 CCRB allegations involving nine cases with three substantiated allegations, one of which was for physical force (Board Review 05).

Explanation of Subject Officer Identification

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b) Det. Andreoli confirmed that he was the officer involved in an altercation with § 87(2)(b) and identified himself as such in the video that was shown to him. Therefore, **Allegation A** is pleaded against Det. Andreoli.

None of the civilians were able to identify the officers who allegedly punched or pepper sprayed § 87(2)(b) or gave any identifying details about them. Multiple attempts to obtain witness testimony from § 87(2)(b) § 87(2)(b) and § 87(2)(b) were unsuccessful. § 87(2)(b) himself, did not cooperate. Multiple commands responded; therefore **Allegations B and C** are pleaded against officers from an unknown command.

§ 87(2)(b) did not cooperate and did not provide any description of the officers during his intake call who he alleged pushed him. Therefore, **Allegation D** is pleaded against officers from an unknown command.

Recommendations

Allegations Not Pleaded

According to § 87(2)(b) was punched in the head and kicked on the ground (Board Review 02). § 87(2)(b) did not allege any of these things on his own behalf (Board Review 01).

Allegations Pleaded

Allegation A—Det. Eric Andreoli used physical force against § 87(2)(b)

According to § 87(2)(b) four officers entered his room and tried to manhandle him. He did not realize that they were officers because he was blind and he started to fight with them. He stated that they did not punch him but that when he was taken to the ground, his arm was twisted behind his back causing an injury to his shoulder (Board Review 01). Medical records show that § 87(2)(b) did not have any injuries to his shoulder and that it hurt because he was suffering from arthritis.

Det. Andreoli said that the facility manager, § 87(2)(b) told him that § 87(2)(b) was intoxicated in the § 87(2)(f) in violation of § 87(2)(f) that he had refused to leave, and that he had broken some of his property. § 87(2)(b) also told Det. Andreoli that he wanted § 87(2)(b) arrested. When Det. Andreoli, PO Masso, and § 87(2)(b) went to the § 87(2)(b)'s room and opened the door, § 87(2)(b) charged out at § 87(2)(b) PO Masso and Det. Andreoli both said that Det. Andreoli placed his hand on § 87(2)(b)'s chest when he came out of his room to calm him down. They both also stated that § 87(2)(b) grabbed Det. Andreoli's arms and started to struggle with him. They placed handcuffs on § 87(2)(b) together.

§ 87(2)(b) and § 87(2)(b) were each contacted to give statements regarding the incident. The § 87(2)(f) at § 87(2)(b) was called multiple times in order to reach § 87(2)(b) and § 87(2)(b). None of them gave statements nor did they confirm or deny the allegation of excessive force.

Video footage from the incident shows that no officers entered § 87(2)(b)'s room and that only two officers were present when the officers approached and the struggle began. § 87(2)(b) came out of his room and approached § 87(2)(b) who was standing with Det. Andreoli and PO Masso. § 87(2)(b) backs away from § 87(2)(b) consistent with Det. Andreoli's statement. A few seconds pass with § 87(2)(b) standing between them when suddenly Det. Andreoli grabbed § 87(2)(b) and pushed him against a wall. Det. Andreoli stated that he placed his hand on § 87(2)(b)'s chest to calm him down but the video is too unclear to see whether this actually happened. It is unclear whether § 87(2)(b) or Det. Andreoli initiated the struggle. The video, which captures the incident from a distance, is obscured by civilians and officers who respond when § 87(2)(b) is taken to the ground. They block much of the view of the struggle and it is indiscernible when or how § 87(2)(b) is finally handcuffed.

Whatever the case may be regarding who initiated contact, it is clear that no officers entered § 87(2)(b)'s room or attacked him in a group as he alleged, but a struggle ensued between Det. Andreoli and § 87(2)(b) while Det. Andreoli was attempting to place § 87(2)(b) in handcuffs and under arrest and that, Additionally, § 87(2)(b)'s medical records indicate a chronic condition of arthritis rather than an acute injury.

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation B—Officers used physical force against § 87(2)(b)

Allegation C—Officers used pepper spray against § 87(2)(b)

§ 87(2)(b) alleged in his interview that an officer shouted to arrest § 87(2)(b) as he was walking away and § 87(2)(b) partially saw four or five officers jump on § 87(2)(b) then punch and pepper spray him. § 87(2)(b) did not describe any of the involved officers and was arrested himself shortly thereafter.

On March 25, 2015, a please call letter was sent to § 87(2)(b). On March 26, 2015, § 87(2)(b) left a voicemail that was indecipherable. § 87(2)(b) was called back on March 26, 2015 at the same number and scheduled for an interview for March 31, 2015. On March 31, 2015, § 87(2)(b) missed his appointment and a missed appointment letter was sent to him the following day. Between April 1, 2015 and April 14, 2015, § 87(2)(b) was called four additional times. Voicemails were left on each occasion. § 87(2)(b) responded and left a voicemail on April 14, 2015. On April 14, 2015 and April 16, 2015, § 87(2)(b) was called and voicemails were left both times. On April 17, 2015, § 87(2)(b) called again and left a voicemail saying that he would like to reschedule. On April 17, 2015, § 87(2)(b) was called again and a voicemail was left. § 87(2)(b) did not respond any further. Because § 87(2)(b) was unable to provide sufficient officer description or situational context to the allegations, and § 87(2)(b) failed to provide a statement, there was not enough evidence to properly analyze the alleged force. The video footage which shows an interaction between § 87(2)(b) and the officers was too obscured by the quality of the footage, the distance of the camera, and the general disorder of officers rushing back and forth to draw any conclusions about his allegations. § 87(2)(g)

Allegation D—Officers used physical force against § 87(2)(b)

Between January 8, 2015 and January 28, 2015, § 87(2)(b) was called five times. On the first occasion § 87(2)(b) answered and said he would call back at a later date and on the other four calls, voicemails were left asking § 87(2)(b) to call back. On January 20, 2015 and January 28, 2015, please calls were sent to § 87(2)(b) § 87(2)(g)

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date